

AO 242 (12/11) Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241

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U.S. DISTRICT COURT
EASTERN DISTRICT ARKANSAS

UNITED STATES DISTRICT COURT

for the

DISTRICT OF ARKANSAS

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U.S. DISTRICT COURT
EASTERN DISTRICT ARKANSAS

DEC 17 2020

JAMES W. MCCORMACK, CLERK
By:  DEP CLERK

MARCUS DEANGELO JONES

Petitioner

v.

Case No. 2:20-cv-00247-BSM-BD

(Supplied by Clerk of Court)

DEWAYNE HENDRIX, (Warden)

Respondent

(name of warden or authorized person having custody of petitioner)

PETITION FOR A WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241

Personal Information

1. (a) Your full name: Marcus DeAngelo Jones
- (b) Other names you have used: Marcus DeAngelo Lee
2. Place of confinement:
 - (a) Name of institution: FCC Forrest City-Low
 - (b) Address: P.O. Box 9000
Forrest City, Arkansas 72336

This case assigned to District Judge Miller
and to Magistrate Judge Deere
 - (c) Your identification number: 12520-045
3. Are you currently being held on orders by:

☒ Federal authorities ☐ State authorities ☐ Other - explain:
4. Are you currently:

☐ A pretrial detainee (waiting for trial on criminal charges)

☒ Serving a sentence (incarceration, parole, probation, etc.) after having been convicted of a crime

If you are currently serving a sentence, provide:

 - (a) Name and location of court that sentenced you: U.S. District Court Western
District of Missouri, 80 Lafayette, Jefferson City, Mo 65101
 - (b) Docket number of criminal case: 00-4010-Cr-C-SRB; 99-4041-Cr-C-SRB
 - (c) Date of sentencing: November 2, 2000; July 25, 2000 (Affidavit of

☐ Being held on an immigration charge Marcus Jones, pg. 2 ¶.5)

☐ Other (explain): _____

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Decision or Action You Are Challenging

5. What are you challenging in this petition:

☒ How your sentence is being carried out, calculated, or credited by prison or parole authorities (for example, revocation or calculation of good time credits)

☐ Pretrial detention

☐ Immigration detention

☐ Detainer

☐ The validity of your conviction or sentence as imposed (for example, sentence beyond the statutory maximum or improperly calculated under the sentencing guidelines)

☐ Disciplinary proceedings

☒ Other (explain): I am challenging the Immediate Custodian's execution of sentence as an unlawful Executive restraint of my liberty without basis in the Courts sentence, duties of Attorney General as executor of Legislative laws, and denial of 5th Amendment due proces.

6. Provide more information about the decision or action you are challenging:

(a) Name and location of the agency or court: Federal Bureau of Prisons, Central Office located 320 First Street NW, Washibgton D.C. 20534

(b) Docket number, case number, or opinion number: Remedy No. 1011515-A

(c) Decision or action you are challenging (for disciplinary proceedings, specify the penalties imposed):

Denial of Time Credit, and Prison acting in excess of its authoity

(d) Date of the decision or action: ~~(See accompanying Affidavit of Marcus Jones, pgs. XXXX-XXXX)~~
(See Accompanying Affidavit of Marcus Jones, pgs. 1 ¶. 3)

Your Earlier Challenges of the Decision or Action

7. First appeal

Did you appeal the decision, file a grievance, or seek an administrative remedy?

☒ Yes ☐ No

(a) If "Yes," provide:

(1) Name of the authority, agency, or court: Warden D. Hendrix, Federal Bureau of Prisons

(2) Date of filing: 3/24/2020

(3) Docket number, case number, or opinion number: Remedy No. 1011515-F

(4) Result: Denied (Affidavit of Marcus Jones, pgs. 1 , ¶. 3)

(5) Date of result: 4/10/2020

(6) Issues raised: Request to be awarded time Credit under the First Step Act and Prison Action in excess of its Statutory authority in calculating time

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(b) If you answered "No," explain why you did not appeal: N/A8. **Second appeal**

After the first appeal, did you file a second appeal to a higher authority, agency, or court?

☒ Yes☐ No

(a) If "Yes," provide:

(1) Name of the authority, agency, or court: Regional Director, South Central Regional Office(2) Date of filing: 7/13/2020(3) Docket number, case number, or opinion number: Remedy No. 1011515-R2(4) Result: Denied ~~XXXXX~~ September 17, 2020 (Aff. of Marcus Jones, pg. 1 ¶. 3)(5) Date of result: September 17, 2020(6) Issues raised: Denial of Time Credit and BOP Acting in excess of its statutory authority

(b) If you answered "No," explain why you did not file a second appeal:

9. **Third appeal**

After the second appeal, did you file a third appeal to a higher authority, agency, or court?

☒ Yes☐ No

(a) If "Yes," provide:

(1) Name of the authority, agency, or court: Office of General Counsel, Federal Bureau Of prisons(2) Date of filing: October 23, 2020(3) Docket number, case number, or opinion number: Remedy No. 1011515-A2(4) Result: Denied(5) Date of result: (See Affidavit of Marcus Jones, pg. 1 ¶. 3)(6) Issues raised: Improper denial of Time Credit and BOP Acting in excess of its authority

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(b) If you answered "No," explain why you did not file a third appeal:

N/A

10. **Motion under 28 U.S.C. § 2255**

In this petition, are you challenging the validity of your conviction or sentence as imposed?

☐ Yes ☒ No

If "Yes," answer the following:

(a) Have you already filed a motion under 28 U.S.C. § 2255 that challenged this conviction or sentence?

☐ Yes ☒ No

If "Yes," provide:

(1) Name of court: N/A

(2) Case number:

(3) Date of filing:

(4) Result:

(5) Date of result:

(6) Issues raised:

(b) Have you ever filed a motion in a United States Court of Appeals under 28 U.S.C. § 2244(b)(3)(A), seeking permission to file a second or successive Section 2255 motion to challenge this conviction or sentence?

☐ Yes ☒ No

If "Yes," provide:

(1) Name of court: N/A

(2) Case number:

(3) Date of filing:

(4) Result:

(5) Date of result:

(6) Issues raised:

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N/A

- (c) Explain why the remedy under 28 U.S.C. § 2255 is inadequate or ineffective to challenge your conviction or sentence: Section 2255 does not provide a vehicle to challenge to execution of a sentence. My Challenge to the denial of time Credit or its calculation falls outside the scope of the relief provided by 2255. So on this ground two 2255 is inadequate or ineffective.
Section 2255 does not provide a adequate or effective remedy to challenge the duration of confinement under a improper execution of the Prison

11. Appeals of immigration proceedings

Does this case concern immigration proceedings?

☐ Yes ☒ No

If "Yes," provide:

- (a) Date you were taken into immigration custody: N/A
- (b) Date of the removal or reinstatement order: _____
- (c) Did you file an appeal with the Board of Immigration Appeals?

☒ Yes ☐ No

If "Yes," provide:

- (1) Date of filing: _____
- (2) Case number: _____
- (3) Result: _____
- (4) Date of result: _____
- (5) Issues raised: _____

- (d) Did you appeal the decision to the United States Court of Appeals?

☐ Yes ☐ No

If "Yes," provide:

- (1) Name of court: N/A
- (2) Date of filing: _____
- (3) Case number: _____

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- (4) Result: _____
- (5) Date of result: _____
- (6) Issues raised: _____
- _____
- _____
- _____
- _____
- _____

12. Other appeals

Other than the appeals you listed above, have you filed any other petition, application, or motion about the issues raised in this petition?

☐ Yes ☒ No

If "Yes," provide:

- (a) Kind of petition, motion, or application: _____
- (b) Name of the authority, agency, or court: _____
- _____
- (c) Date of filing: _____
- (d) Docket number, case number, or opinion number: _____
- (e) Result: _____
- (f) Date of result: _____
- (g) Issues raised: _____
- _____
- _____
- _____
- _____
- _____
- _____
- _____

Grounds for Your Challenge in This Petition

- 13. State every ground (reason) that supports your claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground.**

GROUND ONE: THE BUREAU OF PRISONS HAS FAIL TO APPLY PETITIONERS 'EARNED TIME' CREDIT FOR EVIDENCE-BASED RECIDIVISM REDUCTION UNDER THE FIRST STEP ACT AND IS ACTING CONTRARY TO THE CONSTITUTION AND FEDERAL LAW AS REFLECTED IN 18 U.S.C. § 3632 ect, 18 U.S.C. §3621, UNLAWFULLY EXTENDING PETITIONERS TERM OF INCARCERATION BEYOND THE LEGAL TERM POSSIBLE OR CHANGE IN CUSTODY

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(a) Supporting facts *(Be brief. Do not cite cases or law.)*: As more detailed in the Attached Affidavit of Marcus Jones, pgs. 2-4 ¶. 5-20 . An based on my conduct and action, my immediate Custodial Dewayne Hendrix, by unilateral execution fiat is unlawfully extending my term of Incarceration or Custody beyond the legal term possible under Federal law by secretly refusing to apply my earned and vested diminution credits that would reduce my stay in the Imprisonment by the Attorney General or would effect a quantum change in custody, where Federal law establish vested credits establishes a 11/2/2022 mandatory release, and a 11/2/2022 Residential Reentry Center ("RRC") placement, for which I am denied consideration.

(CONTINUE OF ATTACHED PAGE 8b)

(b) Did you present Ground One in all appeals that were available to you?

☒ Yes

☐ No

GROUND TWO:

(a) Supporting facts *(Be brief. Do not cite cases or law.)*:

(b) Did you present Ground Two in all appeals that were available to you?

☐ Yes

☒ No

GROUND THREE:

(a) Supporting facts *(Be brief. Do not cite cases or law.)*:

(b) Did you present Ground Three in all appeals that were available to you?

☐ Yes

☒ No

CONTINUATION PAGE 8b

Federal law authorize diminution credits for certian prisoners, in cluding me. My Imediate Custodian herein via Staff unilaterally refuses me all credits without notice. By law credits require my release on or about November 2, 2022, and release to a RCC in pre-release custody by November 2, 2021, for which the process for completing the necessary quantum change in custody has not changed or began due to the refusal to award the vested diminution credits.

I have complied with the plan terms of the First Step Act, and I should be transitioning to a RCC placement consideration, after having my sentence reduced by 1 year. By my Affidavit I pray my sentence be reduced or modified and I be considered for a quantum change in my custody.

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GROUND FOUR:

(a) Supporting facts *(Be brief. Do not cite cases or law.)*:

(b) Did you present Ground Four in all appeals that were available to you?

☐ Yes

☒ No

14. If there are any grounds that you did not present in all appeals that were available to you, explain why you did not: Ground was not available or cognizable on direct appeal or in a 2255 proceeding.

Request for Relief

15. State exactly what you want the court to do: Order the BOP to immediately apply Mr. Jones' earned Time credit of 365 days from the end of his sentence that would lead to placement in pre-release custody;
- (2). This Court Award the Writ of habeas Coprus discharge based upon my Application and Petition supported by my Sworn Affidavit, therewith, awarding me time credit, and immediate consideration for RRC placement; Or
- (3) This Court issue any further relief in this matter as law and justice require.

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Declaration Under Penalty Of Perjury

If you are incarcerated, on what date did you place this petition in the prison mail system:

12/9/2020

I declare under penalty of perjury that I am the petitioner, I have read this petition or had it read to me, and the information in this petition is true and correct. I understand that a false statement of a material fact may serve as the basis for prosecution for perjury.

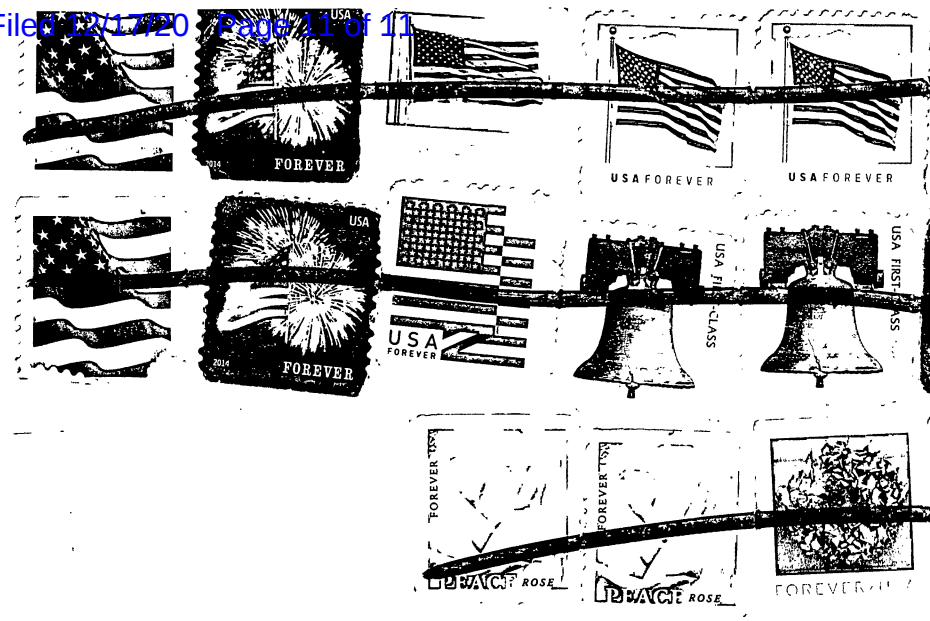
Date: 12/9/2020



Signature of Petitioner

Signature of Attorney or other authorized person, if any

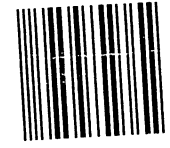
MARCUS JONES # 12520-043
F.C.C Forrest City - low
P.O. Box 9000
Forrest City, Arkansas
72336



PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT
OF THE RETURN ADDRESS. FOLD AT DOTTED LINE.
CERTIFIED MAIL



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